

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION

RAUL ARROYO, SR., et al.,)	
)	
Plaintiffs,)	
)	
v.)	No. 08 C 1252
)	
Z FORCE TRANSPORTATION, INC.,)	
)	
Defendant.)	

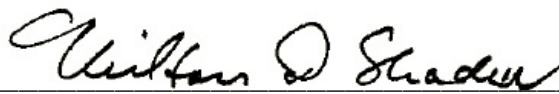
MEMORANDUM ORDER

Z Force Transportation, Inc. ("Z Force") has filed its Answer and Affirmative Defenses ("ADs") to the First Amended Complaint brought against it by its ex-employees Raul Arroyo, Sr. and Jr. This memorandum order is issued sua sponte to correct one problematic aspect of that responsive pleading.

AD 1 asserts:

Plaintiffs have failed to state a claim upon which relief can be granted in that they suffered no adverse employment action(s).

But that assertion violates the basic principle governing ADs, because it is based on Z Force's version of the facts rather than Arroyos' allegations, which must be accepted as true for AD purposes--see App. ¶5 to State Farm Mut. Auto. Ins. Co. v. Riley, 199 F.R.D. 276, 278 (N.D. Ill. 2001). Accordingly AD 1 is stricken.



Milton I. Shadur
Senior United States District Judge

Date: April 14, 2008